

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

HAROUNA TOURÉ and  
IDRISS ABDELRAHMAN,

Defendants.  
----- x

:  
: PROTECTIVE ORDER

: 09 Cr. 1244 (BSJ)  
:  
:

BARBARA S. JONES, District Judge:

This matter is before the Court on the Government's classified Motion For a Protective Order Pursuant To The Classified Information Procedures Act And Rule 16(d)(1) and supporting memorandum (collectively, the "Government Submission"). The Government Submission was filed *ex parte* and *in camera* on April 4, 2012.

The Government Submission seeks a protective order pursuant to Section 8 of the Classified Information Procedures Act ("CIPA"), 18 U.S.C. App. III, and Rule 16(d)(1) of the Federal Rules of Criminal Procedure authorizing the preclusion of certain lines of cross-examination that might reveal classified information. After *ex parte*, *in camera* inspection and consideration of the Government's Submission, this Court finds that:

The Government Submission contains classified information that requires protection against unauthorized disclosure. That information is described with particularity in the Government Submission.

The Classified Information (as defined in the Government Submission at page 2) is not discoverable under *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), or Rule 16 of the Federal Rules of Criminal Procedure.

The Classified Information is neither material nor helpful to the defense under *United States v. Abu Jihad*, Nos. 630 F.3d 102, 141 (2d Cir. 2010) (citing *United States v. Roviato*, 353 U.S. (1957)).


The Classified Information may be referenced at trial if defense counsel pursue a specific line of cross-examination.

Accordingly:

IT IS HEREBY ORDERED that the Government's motion for a protective order restricting certain cross-examination pursuant to Section 8 of CIPA and Rule 16(d)(1) is granted. Specifically, defense counsel will not be permitted to ask certain law enforcement witnesses (i) whether the witnesses are aware of any information indicating that the defendants had potential terrorist affiliations; or (ii) whether the witnesses are aware of any information that the defendants had telephonic or text connectivity with individuals who had terrorist affiliations.

IT IS HEREBY FURTHER ORDERED that the Government Submission is hereby sealed, and shall remain preserved in the custody of the Court Security Officer Michael P. Macisso, or his successor or designee, in accordance with established court security procedures, until further order of this Court;

IT IS SO ORDERED this 9<sup>th</sup> day of April, 2012.

  
THE HONORABLE BARBARA S. JONES  
UNITED STATES DISTRICT JUDGE